IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 30.10.2024

Pronounced on : 18.11.2024

CORAM

The Hon`ble Mr.Justice P.DHANABAL

CRL OP.No.25262 of 2024

Krishnamoorthy S/o. Balaraman ... Petitioner /Accused-37

Vs

State rep. by:-

The Additional Superintendent of Police,
Economic Offences Wing-II,
HQRS, Chennai. ... Respondent
[Cr. No.7 of 2022]

PRAYER: - The Criminal Original Petition is filed under Section 483 of B.N.S.S., praying to grant bail to the petitioner/Accused in Crime No.7 of 2022 on the file of the respondent police.

For Petitioner : Mr. Ganesha Moorthy.B.

For Respondent : Mr. R. Muniyapparaj,
Additional Public Prosecutor,
assisted by
Mr. Sylvester John

ORDER

The petitioner/Accused, who was arrested and remanded to judicial custody on 05.07.2024 for the offences punishable under Sections 409, 120-B, 420, 406, 201, 204, 109, 34 of IPC read with Section 3, 5, 21(1), 21(2), 21(3), 23 and 25 of Banning of Unregulated Deposit Schemes Act 2019 and Section 58(B) of Reserve Bank India Act, 1934 and Section 5 of Tamil Nadu Protection of Interests of Depositors (In Financial Establishment) Act 1997 and in Cr. No.7 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that A1 Aarudhra Gold Trading Pvt. Ltd., and other accused invited deposits through advertisements in websites and social media at 21 branches in Aminjikarai, Anna Nagar, Perungalathur, Urapakkam, Avadi, Villivakkam, Chengalpattu, Uthiramerur, Tiruvallur, Nemili, Kanchipuram, Aarani, Cheyyar, Mangal SIPCOT, Vellore, Ranipet, Trichy, Madurai, Palayamkottai, Tirunelveli, Hosur and Krishnagiri and had been collecting deposits from the public with false promise of repaying exorbitant interest at the rate of 10% to 30% per month. As per the FIR, Rs.2522.63 crores were collected from 1,09,255 depositors through 30 bank accounts of the company and its

Directors from the year 2020 and cheated the depositors. Hence the case.

3. The learned counsel for the petitioner would contend that the respondent police have registered a false case as against this petitioner and he has been arrayed as A37 in this case in Cr. No.7 of 2022 for the alleged offences under Sections 409, 120-B, 420, 406, 201, 204, 109, 34 of IPC read with Section 3, 5, 21(1), 21(2), 21(3), 23 and 25 of Banning of Unregulated Deposit Schemes Act 2019 and Section 58(B) of Reserve Bank India Act, 1934 and Section 5 of Tamil Nadu Protection of Interests of Depositors (In Financial Establishment) Act 1997. In fact, initially FIR has been registered on 25.05.2022 against 14 accused persons and this petitioner was not a named accused in the said FIR and even as per the charge sheet, the petitioner is acted only as a driver and participated in the inaugural functions of the branches and meetings. This petitioner was only working as a driver in the above said company on monthly salary basis. Already investigation was completed and charge sheet was also filed. Now the case is pending in C.C. No.9 of 2023 and some of the accused were released on bail and the petitioner is

in judicial custody from 05.07.2024. Therefore, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Criminal Side) would submit that totally there are 40 accused, out of 40 accused A1 to A8 are companies and A9 to A40 are the accused persons. Out of 32 accused, 26 accused were arrested and remanded to judicial custody. This petitioner is arrayed as A37. M/s. Aarudhra Gold Trading Private Limited/A1, so far collected deposits around Rs.2438 crores from about 1,09,255 depositors. The accused have not registered the company under SEBI Act. After registration of charge sheet on 20.05.2022, the principal conspirator Rajasekar Veeraraghavan/A9 along with Usha Vetrivel/A15, Senthilkumar/A12 and Micheal Raj/A14, absconded to Dubai, they concealed the documents related to the investment collection of A1 company on connivance with A35 Chandrakkannan and even destroyed some crucial information stored in the computers. They purposefully diverted huge amount of Cash to Dubai with the help of A38/Pechimuthuraj @ Rafeeq. As far as this petitioner is concerned,

this petitioner/A37 is a maternal uncle of A9/Rajasekar Veeraraghavan and he is incharge for the collection of cash from the branches of A1 company and kept those cash filled bags under his custody. He also involved in the collection of unregulated deposits at Aminjikarai, Head Quarters branch of A1 company. This petitioner along with other accused regularly conspired and participated in the meetings of Directors at the Star hotels, attended inaugural functions of new branches of A1 company and involved in the canvassing and promotion of the deposit schemes of A1 company and collected unregulated deposits, thereby defaulted the repayment of deposits to the public. This petitioner was arrested on 05.07.2024 on execution of NBW. The Board of Directors A14, A16 and A17 are still in prison and the extradition process is under process to secure the absconding accused A9 and A15, who escaped to United Arab Emirates. Many complaints have been received and micro level investigation is required. The further investigation reveals that the number of complaints and the quantum of money is being increased. In this case, huge money collected from lot of persons, is involved. Some more witnesses have to be examined to find out the truth regarding the diversion of money and transfer of properties done by the petitioner/accused and absconding accused are to be secured. Hence, at this stage, the petition is liable to be dismissed.

4.1. The learned Government Advocate appearing for the State has relied upon the following judgments in support of his contention.

4.1.1. ***Y.S. Jagan Mohan Reddy vs. Central Bureau of Investigation reported in 2013(7) SCC 439.***

4.1.2. State of Gujarat vs. Mohanlal Jitamaji Porwal reported in 1987 Supreme Court Cases 364.

4.1.3. Vinod Bhandari vs. State of Madhya Pradesh reported in (2015) 11 Supreme Court Cases.

4.1.4. Sohan Singh Rao vs. Union of India reported in (2022) SCC Online Raj 1464.

4.1.5. Nimmagadda Prasad vs. Central Burearu of Investigation reported in (2013) 7 Supreme Court Cases 466.

5. Heard both sides and perused the materials available on record.

6. Considering the rival submissions made on either side, considering the fact that as per the prosecution case, there are Managing Directors, Directors, Nominated Directors and Branch Directors and this petitioner was working only as driver for monthly salary basis under the A1 Company and he is not a Managing Director or the Director of the company and even as per the charge sheet, this petitioner has participated in the meetings and the inaugural functions of the A1 company branches and no any allegations in respect of the receipt of money from the public and this petitioner is in judicial custody from 05.07.2024 and there is no previous case pending against this petitioner, already material part of investigation was also completed and now further investigation is pending and no any properties were recovered from this petitioner during the investigation and already some of the co-accused were also released on bail.

7. As far as the judgments relied by the Additional Public Prosecutor appearing for the respondent police are concerned, they will not be applicable to the present facts of the case, because this petitioner

is only worked as driver to the main accused for salary and no serious allegations as against this petitioner, I am inclined to grant bail to the petitioner, subject to the following conditions:

[a] Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned **Special Judge, Special Court for exclusive trial of cases under Tamil Nadu Protection of Interests of Depositors (In Financial Establishment) Act 1997, Chennai** and on further conditions that:

[b] the petitioner shall report before the Special Judge, Special Court for exclusive trial of cases under Tamil Nadu Protection of Interests of Depositors (In Financial Establishment) Act 1997, Chennai on all working days at 10.30 a.m. until further orders;

[c] the petitioner shall not commit any offence similar to the offence of which he is accused, or suspected, or of the commission of which he is suspected;

[d] the petitioner shall not abscond either during investigation or trial;

[e] the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence;

[f] On breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

18.11.2024
[4/4]

index: Yes/No
Internet: Yes/No

CRL O.P. No.25262 of 2024

Speaking/Non Speaking order
mjs

P.DHANABAL,J

mjs

To

1.The Special Judge, Special Court under the TNPID Act (Financial Establishment) Act, Chennai.
2.The Public Prosecutor, Madras High Court, Chennai.
3.The Additional Superintendent of Police, Economic Offences Wing-II, HQRS, Chennai.
4. The Superintendent of Police, Central Prison, Puzhal, Chennai.

CRL. O.P. No.25262 of 2024

18.11.2024

[4/4]